

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
EASTERN DIVISION

NO. 4:18-CR-34-FL-1

UNITED STATES OF AMERICA,

v.

KEVIN EARL ELROD,

Defendant.

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ORDER

This matter is before the court on defendant's motions to reduce sentence due to COVID-19 (DE 113), for writ of habeas corpus (DE 115), and his notices of unlawful judgment (DE 116) and mental deficiency (DE 118). To the extent defendant is challenging his conviction or sentence on the grounds of ineffective assistance of counsel, that he was mentally incompetent to understand the proceedings against him, or that his sentence is unfair, the court is without jurisdiction to consider these claims for the reasons repeatedly explained to defendant in the court's prior orders. (See DE 83, 96, 109). As previously explained, the court lacks jurisdiction to consider additional claims challenging defendant's conviction or sentence. In order to assert these claims, defendant must obtain prefiling authorization from the United States Court of Appeals for the Fourth Circuit to file a successive motion to vacate his conviction or sentence pursuant to 28 U.S.C. § 2255. See 28 U.S.C. §§ 2255(h), 2244; United States v. Winestock, 340 F.3d 200, 204–05 (4th Cir. 2003).


Defendant is once again DIRECTED to cease filings motions or other documents seeking to challenge his conviction or sentence without first obtaining prefiling authorization from the court of appeals. In the absence of authorization from the court of appeals to consider a successive

motion to vacate, any further motions challenging defendant's conviction or sentence will be denied summarily with reference to this order.

Defendant also seeks a reduction in his sentence based on COVID-19. However, defendant is not entitled to automatic sentence reduction of 10 months based on COVID-19, as he argues in the instant motion.

Based on the foregoing, defendant's motions for writ of habeas corpus (DE 115), and his notices of unlawful judgment (DE 116) and mental deficiency (DE 118) are DISMISSED without prejudice to the extent defendant seeks to challenge his conviction or sentence. Defendant's motion to reduce sentence due to COVID-19 (DE 113) is DENIED.

SO ORDERED, this the 19th day of December, 2022.


LOUISE W. FLANAGAN
United States District Judge